



Nacimiento Project Commission Notice of Meeting and Agenda

**Thursday, June 28, 2007 – 4:00 pm
Templeton Community Services District Board Room
420 Crocker Street, Templeton CA**

- I. Call to Order, Roll Call, and Flag Salute
- II. Public Comment
This is the opportunity for members of the public to address the Commission on items that are not on the agenda, subject to a three minute time limit.
- III. Meeting Notes from April 26, 2007
(RECOMMEND APPROVAL)
- IV. COMMISSION INFORMATION ITEMS – written reports with brief verbal overview by staff or consultant. No action is required.
 - a. Project Management Report
 - b. Project Schedule
 - c. Project Budget
- V. PRESENTATIONS – no action required.
 - a. Opt-Out White Paper
- VI. COMMISSION ACTION ITEMS
(No Subsequent Board of Supervisors Action Required)
 - a. Selection of Environmental Monitoring Consultant
- VII. COMMISSION ACTION ITEMS
(Board of Supervisors Action is Subsequently Required)
 - a. Builder's Risk Insurance Provisions
 - b. Extension of Right-of-Way Support Services
 - c. Nacimiento Water Project EIR Addendum
- VIII. FUTURE AGENDA ITEMS DESIRED BY COMMISSION

Commissioners

Harry Ovitt, Chair, SLO County
Flood Control & Water
Conservation District

Dave Romero, Vice Chair, City of
San Luis Obispo

David Brooks, Templeton CSD

Grigger Jones, Atascadero MWC

Frank Mecham, City of El Paso
de Robles

**Next Commission meeting scheduled for
Thursday, August 23, 2007, at 4:00 pm at
Templeton Community Services District offices.**

Nacimiento Project Commission
June 28, 2007
Agenda Item III – Meeting Notes from April 26, 2007

I. Call to Order, Roll Call and Flag Salute

Vice Chairman Romero convened the meeting at 4:00 pm.

Commissioners Present: Chairman Harry Ovitt, SLO County Flood Control & Water Conservation District
Vice Chairman Dave Romero, City of San Luis Obispo
Frank Mecham, City of el Paso de Robles
David Brooks, Templeton CSD
Grigger Jones, Atascadero MWC

II. Public Comment – (none)

III. Meeting Notes from February 15, 2007, Meeting

Commissioner Mecham moved approval of the February 15, 2007, meeting notes; Commissioner Jones seconded the motion; motion passed unanimously.

IV. Project Management Report

John Hollenbeck elaborated on some points from the Project Management Report, specifically that earlier in the day, the District hosted an informational meeting for interested environmental monitoring firms. Ron Drake of Jacobs reported that approximately 8 firms attended and the interest seemed high.

Mr. Hollenbeck received the signed Army Corps 404 permit today. State Fish & Game staff dedicated time earlier this week on finishing the streambed alteration agreements along with District and ESA staff. Mr. Hollenbeck expects to receive the signed permits within days. Once received, the District will have all permits in hand needed to commence advertisement for construction bids.

The Army Corps' Report of Availability (which is apparently needed to secure an easement across Camp Roberts) is still held up. A right of entry is underway to allow construction to commence while easement terms are being settled.

Mr. Hollenbeck reported that while native material is not suitable for pipe zone backfill along much of the alignment, the local availability of sand is good. Steve Foellmi noted that Black & Veatch contacted seven eligible quarries.

Jacobs proposes a change to their project team with Ron Drake elevated to the position of Project Construction Manager and Lead Resident Engineer. Bob Lewis was initially proposed in this role. Mr. Hollenbeck is supportive of the change.

The 2007 Amendment to the 1959 master water contract with MCWRA is now fully executed. The District is about to make the acquisition offer to MCWRA and is concurrently processing a right of entry. The next elected official's meeting with MCWRA is scheduled for May 31, 2007, with confirmation details forthcoming.

As a follow-up to the Project's first hearing of necessity, Chairman Ovitt urged staff to take the cost of condemnation proceedings into account in reaching acquisition agreements.



A recent court decision on operations of the State Water Project suggests further delivery reductions off of that system. Renewed interest in Nacimiento deliveries from potential participants is expected as a result of that decision.

Mr. Hollenbeck was pleased to report that the Project schedule continues to track closely to the schedule established 18 months ago. He expressed gratitude to Steve Foellmi and Paul Kneitz in particular for their tireless support in meeting deadlines.

VII. Commission Action Items (Subsequent Board of Supervisors Action Required)

Builder's Risk Insurance – Mr. Hollenbeck summarized his consultations with County Risk Management staff and Alliant Insurance with regard to recommended Project insurance coverage during construction. A project-wide builder's risk insurance policy is recommended. Builder's risk insurance is a Project costs that is currently accounted for in the construction line item of the budget, and will need to be budgeted separately. Mr. Hollenbeck described the coverage and the reasoning behind the \$35 million coverage limit. Initial findings are that the deductible may range from \$5,000 to \$10,000 per event and that each construction contractor could be responsible for paying the deductible on events that were under their control. Extending the coverage to include earthquake and flood coverage is also being considered. The District would have a builder's risk insurance policy in effect by the date of notices to proceed with construction.

Mr. Hollenbeck recommends that Alliant Insurance Company be retained to assist with builder's risk insurance procurement and to proceed with procurement under the County's insurance program. Commissioner Mecham moved approval of the Project Manager's recommendation with the understanding that staff will return with specific coverage and deductible recommendations prior to procurement; Commissioner Romero seconded; passed unanimously.

Authorization to Advertise for Construction Bids – Mr. Hollenbeck recommends advertising for construction bids as follows:

Spec	Name	Advertise for Bids	Bid Opening
1	Intake	May 22, 2007	July 12, 2007 ¹
2	Facilities	June 19, 2007 ²	August 16, 2007 ¹
3	Pipeline – North	May 22, 2007	July 19, 2007
4	Pipeline – Central	May 22, 2007	July 26, 2007
5	Pipeline - South	May 22, 2007	August 2, 2007

The Project Manager is setting the exact timing for initiating the Opt-Out phase, but must first agree on a procedure to accept or reject alternative bids for larger diameter pipes.

VIII. Future Agenda Items Desired by Commission – None stated.

Vice Chairman Romero adjourned the meeting at 5:00 pm.

Submitted by Christine Halley

¹ The Intake bid has been rescheduled to July 16, 2007.

² This date may vary depending on whether the District accepts alternate bids for larger diameter pipelines, thus requiring a re-design to smaller horsepower facilities.



Nacimiento Project Commission
June 28, 2007
Agenda Item IV.a – Project Management Report
(Information Only – No Action Required)

PROJECT RESOURCES

Procurement of environmental monitoring services is underway with six proposals submitted for these services. Opus Environmental, TRC, PMC, Rincon, Bio Resources Consultants, and ESA all submitted proposals to the District, review of which is now underway. Base proposed fees all fell within the \$1.8 million line item budget, although contract negotiations have yet to begin. Depending on final contract negotiations, a District-held contingency of +\$2 to \$500,000 may be recommended to address issues such as extended construction periods and overtime, sensitive plant and endangered species retrieval/relocation, addressing cultural and/or paleontological finds beyond those identified in the monitor's bases scope of services, and response to unforeseen permit compliance events. The selection panel is to convene to make a recommendation on June 26, 2007. Refer to Agenda Item VI.a for recommendations regarding selection.

PROJECT ISSUES

Status of Financial Issues

Recent finance team activities include conduct of the credit assessment for the Atascadero Mutual Water Company, a Finance Committee meeting on June 14, 2007, and most importantly, the presentation to rating agencies on June 21, 2007.

Representatives from both Fitch Rating Agency and Standard & Poor's met with District staff, Public Financial Management, and staff from each Participant. The purpose of these meetings with the rating agencies was to share Project and Participant information with them and to give them the opportunity to pose questions. At the conclusion of the June 21, 2007, discussion, at least one rating agency left the group with the sense that a strong "A" bond rating should be achievable. The finance team expects to have an initial rating by July 13, 2007, to be confirmed at the conclusion of the Opt Out period. At this point, we all stand ready to respond to any follow-up questions that these rating agencies may pose.

Environmental Permitting

All of the state and federal permits for the Nacimiento Water Project made their way into District offices during the first week of May. The Recovery Plan was submitted to the State Historic Preservation Officer in March but we have yet to secure their concurrence.

The Project EIR Addendum was completed on May 18, 2007, and is presented for Commission consideration under Agenda Item VII.c . The *NEPA Environmental Assessment* prepared by ESA for the National Guard Bureau in Washington was returned to the Project team with comments, resolved in a teleconference on May 22, 2007. This should have completed a major step in the Camp Roberts' easement process, but unfortunately that was not the case.

Almost immediately after the NEPA document was sent on its way, the District received word from the California National Guard that its easement process required an Environmental Baseline Study for hazardous materials, and that the Project hazmat report was not in the proper format. This was the first any of the team had heard of an Environmental Baseline Study as a Project responsibility. The National Guard then announced a potential 3-6 month delay before actual work could begin on Camp Roberts. If literally true, it would push work at Camp Roberts almost to the end of the year, provided that yet another hurdle is not laid before the District.

The Project Manager and the Nacimiento Commission Chair met with the Installation Commander, COL John F. Smith, at Camp Roberts on June 8, 2007. COL Smith will reach out to the National Guard at Sacramento for assistance on our behalf.

Proposed Amendment to the Delivery Entitlement Contract

Beginning in 2006, we discussed the need to amend the delivery entitlement contracts to address several issues, primarily clarification of Commission membership as New Participants come on board. The Project Manager circulated a draft "Amendment No. 2" for Participant review and received comments from most affected parties. On June 18, 2007, he circulated responses to all comments to date along with a revised proposed amendment to address:

1. Commission membership (Article 33).
2. Coverage Factor accounting (Article 20).
3. References to instantaneous flow rates and monthly volumes to align with peaking requests.
4. Change in unit descriptions, especially relocating the middle pump station from Camp Roberts to south of Paso Robles.
5. Ability to update parametric information each time a New Participant is added without the need to amend each contract.
6. Corrections to definitions and typographical errors.

Participants and the District are asked to execute this proposed Amendment No. 2 prior to the end of the Opt Out period, that is by August 24, 2007.

Status of Project Delivery Team Activities

Right of way – The status of right-of-way issues as of June 22, 2007, is as follows:

Date	Number of Identified Owners³	Completed Legal Descriptions	Appraisals Ordered⁴	Appraisals Complete	Offers Made	Agreements Signed
As of June 22, 2007	50 (41 private + 9 public)	50 completed	43 completed	42	41	21

A third necessity hearing is scheduled for June 26, 2007, with seven properties under discussion. Meanwhile, many properties that were subject of prior necessity hearings have reached or are nearing agreement. In the weeks ahead, all properties will either be settled by agreement or in the eminent domain proceedings (with the exception of the TCSD turnout parcel, the legal description for which was delayed). Refer to the Commission Item VII.b for a discussion of sustained right of way services.

Design/Bid Activities – All five construction contracts are being advertised now and the planholder status as of June 22, 2007, is:

- Spec 1 27 planholders
- Spec 2 18 planholders
- Spec 3 50 planholders
- Spec 4 48 planholders
- Spec 5 44 planholders

In addition, 70 people attended the pipeline pre-bid conference on June 5, 2007. Several out-of-state contractors as well as local pipeline contractors were in attendance. Of the 6 pre-qualified general contractors for Spec 1 (Intake), 4 attended the mandatory pre-bid. Of the three who did not attend, one is out of business as of March 2007, one was recently awarded to large contracts and could not support our Project, and one provided no details why they did not attend. General consensus is that the pre-bid was very successful demonstrating strong contractor interest in the project and good competition.

Black & Veatch's efforts revolve around responding to contractor/supplier questions and packaging addenda to the construction contracts. They are also preparing for issuance of the cost opinion report which will trigger the beginning of the Opt-Out period.

Construction Management Activities – The Jacobs construction management team is on-site and engaged in correspondence with potential bidders. They hosted the pre-bid meeting and job walks earlier this month and are expanding upon the Project schedule and filing systems.

³ You may notice that this number changes from time to time. This is due to alignment changes and properties being bought and sold among private parties and public agencies. Of the 50 total owners, 4 are assigned to the Participants for their turnout construction and other encroachments, one is on federally owned land, one is Camp Roberts, one is MCWRA, one is a County park, and another group fall under various State agencies.

⁴ All necessary District appraisals are ordered. Appraisals have been ordered for all 41 private owners plus the MCWRA properties and the Cal Poly property which we later learned would be acquired through the State Lands Commission. The appraisal/offer for the TCSD turnout is pending.



Jacobs is reviewing the environmental monitoring proposals and will participate in firm selection later this month.

Outside Agency Issues

PG&E – Paso Robles met with PG&E management on June 1, 2007, regarding several City coordination issues, including the City's strong interest in securing electrical power for the Nacimiento Water Project in time for 2010 water deliveries.

SLO County IT Department – The memorandum of understanding pertaining to joint installation of fiber optics has been drafted by staff and forwarded to County Counsel for review.

Monterey County Water Resources Agency – At the elected official's meeting in King City on May 31, 2007, the agencies reconfirmed their commitment to work cooperatively to grant the necessary easements and engaged legal counsel to put the necessary agreements into place. Acquisition of Agency property is on the agenda for the June 26, 2007, necessity hearing.

Conoco Phillips – The District requested written confirmation of each party's responsibilities with regard to disturbance of the contaminated soils along the alignment. Conoco Phillips responded in disagreement to the arrangement and dialogue is ongoing.

Camp Roberts – Refer to the environmental permitting discussion above for a status report on dialogue with Camp Roberts.

* * *

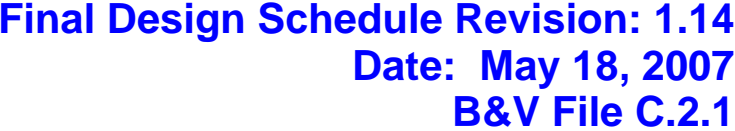


Nacimiento Project Commission
June 28, 2007
Agenda Item IV.b – Project Schedule
(Information Only – No Action Required)

We remain substantially on schedule with the bid dates and Opt Out period as discussed in recent months. The bid opening for Spec 1 – Intake is now July 16, 2007, rescheduled from July 12, 2007, to avoid conflict with other competing bid openings. Remaining rights-of-way are expected to be in place in time for the contractors' notices to proceed, the timing of which drove the June 26, 2007, necessity hearing date. Bond rating agencies are on schedule to confirm our rating status concurrent with the closure of the Opt Out period.

At this point, the timing of obtaining access to Camp Roberts for construction lies on the critical path





Legend:

- Task: Represented by a blue rectangle.
- Critical Task: Represented by a blue rectangle with a thick border.
- Progress: Represented by a black rectangle.
- Milestone: Represented by a circle with a diamond inside.
- Summary: Represented by a double-headed arrow.

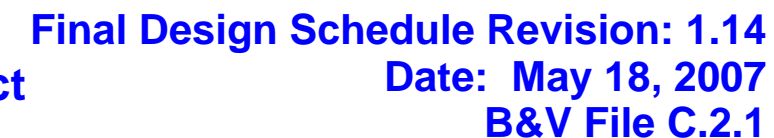


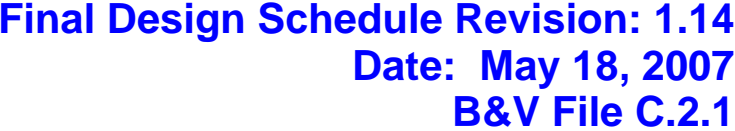
Nacimiento Water Project San Luis Obispo County Flood Control and Water Conservation District Project Schedule - Final Design

Final Design Schedule Revision: 1.14
Date: May 18, 2007
B&V File C.2.1

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Task  Critical Task  Progress  Milestone  Summary 





Nacimiento Project Commission
June 28, 2007
Agenda Item IV.c – Project Budget
(Information Only – No Action Required)

Attached is the Project Budget Reporting for through the end of May 2007. The design phase draws to a close within the \$18.9 million budget and a revision to the construction phase anticipated costs will be developed as part of the Opt Out cost reporting.

The Technical Support Group reviewed a mock-up of the engineer's Cost Opinion Report which is to be issued at the onset of the Opt Out period, and revised as bid results come in. Black & Veatch will publish the Cost Opinion Report per the delivery entitlement contracts primarily to a) report on bids received to date, and; b) forecast remaining construction costs in light of bids received. The TSG is developing a method of considering alternate bids for larger diameter pipe such that a succinct recommendation may accompany the Cost Opinion Report.



**Nacimiento Water Project
Project Budget Reporting
Report Ending Period: 5/31/07**

	Initial Budget	Revised Budget as Approved August 2006	Cost to Date thru 5/31/07	Remaining Budget	Projected Total Cost as of 1/18/07	Projected Variance (Budget Vs. Cost)	Comments
Design Phase Anticipated Costs							
Project Management	\$1,250,000	\$1,875,000	1,948,367	(\$73,367)	\$2,033,000	(\$158,000)	Includes County Project Manager, VE, support staff, consultant support, and legal fees.
Environmental	\$800,000	\$899,667	913,758	(\$14,091)	\$1,310,000	(\$410,333)	ESA-Includes design assistance, permit applications, agency coordination.
PG&E Service Extension	\$1,100,000	\$1,100,000	5,170	\$1,094,830	\$300,000	\$800,000	11/06-Revised estimate to extend power to proposed facilities.
Right of Way Consulting Services	\$500,000	\$635,000	594,163	\$40,837	\$665,000	(\$30,000)	Hamner-Jewell contract plus allowance for appraisal and title reports by others.
Property Acquisition	\$2,000,000	\$2,500,000	112,472	\$2,387,528	\$2,500,000	\$0	8/06-Revised acquisition budget.
Construction Mgt/Constructability Review	\$2,000,000	\$2,000,000		\$2,000,000	\$735,000	\$1,265,000	Initial CM services authorization.
Engineering Design (Includes geotechnical, survey & Design CM)	\$10,250,000	\$9,088,800	8,201,681	\$887,119	\$8,988,800	\$100,000	Black and Veatch Corporation 11/06-Revised projected total.
Finance	\$0	\$115,000	0	\$115,000	\$85,000	\$30,000	PFM, UBS, and Fulbright & Jaworski. 11/06-Revised projected total.
New Participant Contribution			(\$49,040)	\$49,040	(\$50,000)	\$50,000	11/06-CSA 10 buy-in.
					Total Variance=	\$1,646,667	
Design Phase Budget Reserve	\$1,000,000	\$686,533		\$686,533	\$2,333,200		
SUMMARY - DESIGN PHASE	\$18,900,000	\$18,900,000	11,726,571	\$7,173,429	\$18,900,000		
Construction Phase Anticipated Costs							
Project Management	\$2,325,000	\$2,712,500		\$2,712,500	\$2,712,500	\$0	2/05-extended +4 months.
Environmental Mitigation	\$3,700,000	\$3,720,000		\$3,720,000	\$4,500,000	(\$780,000)	Estimated as \$100,000 per mile for pipeline realignments, special construction techniques, and other costs incurred due to unforeseen environmental issues.
Materials Testing	\$300,000	\$300,000		\$300,000	\$300,000	\$0	
Construction Management	\$4,200,000	\$4,185,000		\$4,185,000	\$5,750,000	(\$1,565,000)	Based on Jacobs construction services fees.
Post-Designer Services by Designer	\$0	\$0		\$0	\$3,200,000	(\$3,200,000)	Black & Veatch's construction phase services.
Environmental Monitoring	\$1,800,000	\$1,800,000		\$1,800,000	\$1,800,000	\$0	Includes cost for cultural and biological monitors during construction.
Construction Contracts	\$93,000,000	\$93,000,000		\$93,000,000	\$137,688,505	(\$44,688,505)	B&V's 50% estimate with contingencies.
District Controlled Contingency							
Construction Phase Contingency and Reserve	\$24,231,000	\$23,838,500		\$23,838,500	\$10,470,245	\$13,368,255	
SUMMARY - CONST. PHASE	\$129,556,000	\$129,556,000	0	\$129,556,000	\$166,421,250	(\$36,865,250)	
Prior Expenses							
Advance Expenditures	\$513,000	\$513,000		\$513,000	\$513,000	\$0	
Cuesta Tunnel	\$1,031,000	\$1,031,000		\$1,031,000	\$1,031,000	\$0	Includes construction of Nacimiento Water Project pipeline section through Cuesta Tunnel.
				\$0	\$0	\$0	
TOTAL PROJECT*	\$150,000,000	\$150,000,000	11,726,571	\$138,273,429	\$186,865,250	(\$35,218,583)	

* Rounded to \$100k

Memorandum's):
Positive Projected Variance indicates costs are under the revised line item budget.
Recent Update: 6/07/07

Nacimiento Project Commission
June 28, 2007
Agenda Item V.a – Opt Out White Paper
(Presentation – No Action Required)

DATE: June 12, 2007

TO: John Hollenbeck, Nacimiento Water Project Manager

FROM: Christine Halley, TJCross Engineers

SUBJECT: Draft White Paper – Nacimiento Water Project Opt-Out Phase

When Participants and the San Luis Obispo County Flood Control & Water Conservation District entered into the Nacimiento Project Water Delivery Entitlement Contracts in 2004, all parties acknowledged that actual Total Nacimiento Project Construction Costs were likely to vary from the \$150 million engineer's estimate at the time and that when actual costs could be established with more certainty, the Participants wanted the option to carry forward or to "opt-out" of the Project. Article 2 – Term of Contract, Rescission⁵ (commonly referred to as the "Opt-Out Clause") was included in the entitlement contracts to allow this option. The purpose of this white paper is to provide background on the Opt-Out Clause and to describe its timeframe for implementation now that construction bids are being advertised.

This white paper was prepared to provide some background on the Opt Out period and its implementation.

Background

The Nacimiento Water Project is designed to deliver up to 17,500 acre-feet per year of untreated water from Lake Nacimiento to communities in San Luis Obispo County, with initial deliveries of 9,655 acre-feet per year. The project consists of a new multi-port intake facility, 45 miles of pipeline, three storage reservoirs, and three pump stations.

Following certification of the Project EIR in January of 2004, four agencies executed entitlement contracts with the District. These were the City of el Paso de Robles, the City of San Luis Obispo, Atascadero Mutual Water Company, and Templeton Community Services District. Representatives from these agencies worked with District staff to develop terms of the entitlement contracts to address such issues as cost sharing, rates of delivery, financing terms, and other responsibilities. At that time, the Total Nacimiento Project Construction Cost was estimated at \$150 million (see below for more background on cost estimating). Participants expressed a concern about signing a contract in 2004 based on an engineer's estimate that preceded the actual construction date by three years or more. They wanted an opportunity to re-confirm their participation, or opt-out of the Project, in the event that construction costs escalated to an unreasonable level.

⁵ Full text of Article 2 attached.



The District readily understood this concern and sought to memorialize that understanding in contract terms. Around that same time, Project staff researched other successful public works Projects throughout California to define their elements of success. The District and Participants settled on the concept of multiple construction contracts to attract a variety of contractors with staggered bid dates to encourage competitive material pricing. This approach forms the foundation of our collective commitment to *positioning the Project for the most favorable bids*.

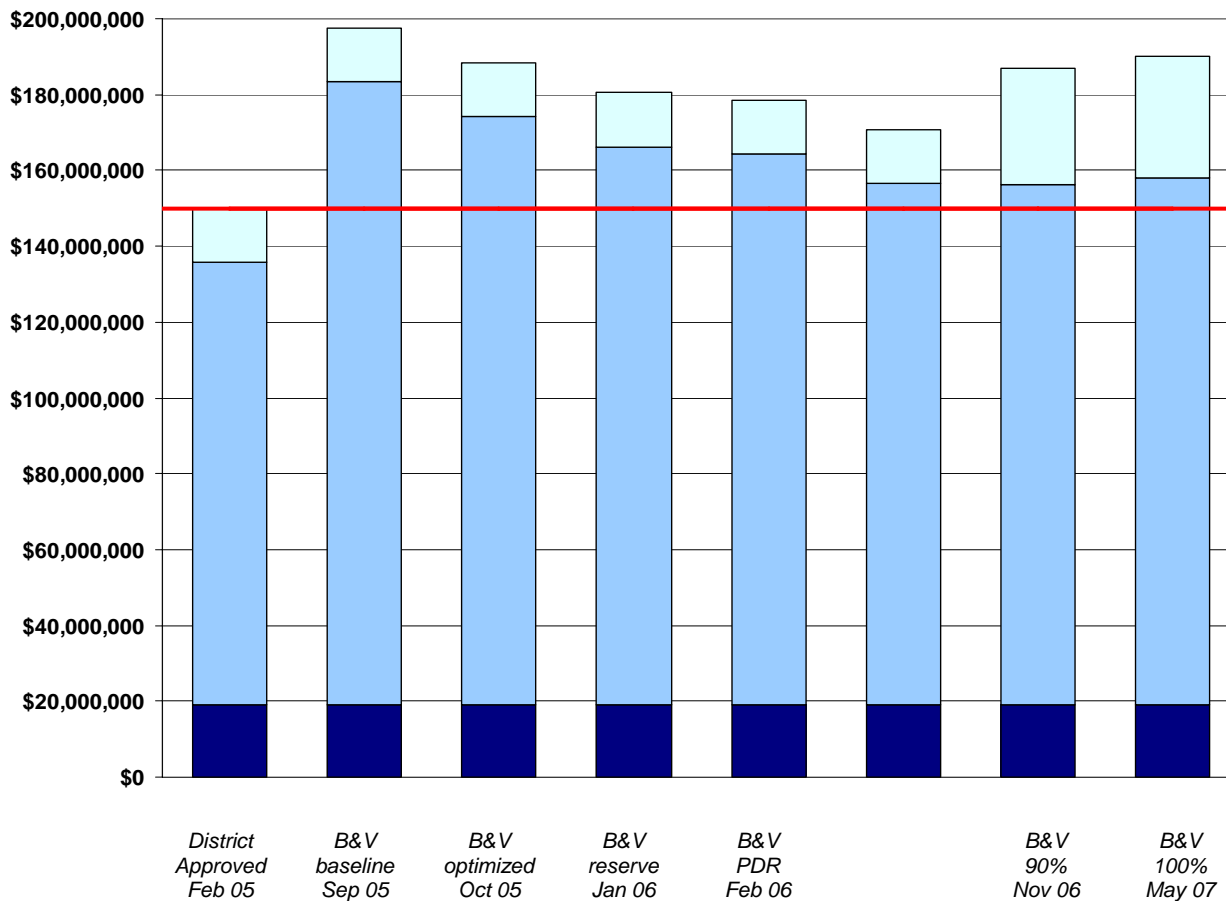
Matching that staggered bid strategy to the Participant's desire to have an opt-out option required careful planning. Calling for an opt-out decision before actual bids were opened would still pose an element of cost risk to Participants. Waiting until all bids were in would require contractors to hold their prices firm for an inordinately long time, which would be counter-productive to securing the most favorable bids. After consideration of several alternative approaches, parties settled on the concept that is captured in the entitlement contracts. That is, once bids are in hand representing at least 30% of the estimated construction value, the engineers would issue a cost opinion report for the full project, thus triggering a 30-day opt-out period. During those 30 days, Participants could opt-out of the Project if costs were expected high, or reconfirm their continued commitment to Project participation. Specific dates upcoming this Summer are outlined below.

Following execution of the entitlement contracts, the Participants and the District formed the Nacimiento Project Commission and proceeded with the Project design phase. As of May 2007, permits are in hand, right-of-way acquisition is well underway and all construction contracts are being advertised with bid openings to commence on July 12, 2007.

Progression of the Cost Estimate

The \$150 million Total Nacimiento Project Construction Costs stated in the entitlement contracts was based in large part on Carollo Engineer's estimates prepared as part of the 2002 "Nacimiento Water Project Engineer's Report", a document prepared in advance of the environmental impact report. The 2002 engineer's estimate was adjusted for inflation to the planned date of construction, then allowances for other associated Project costs were added. For example, allowances for design services, construction management, right-of-way acquisition, and a host of other ancillary activities were set forth, largely under the guidance of Boyle Engineering Corp. This more detailed estimate became the line item budget that is regularly reviewed by the Commission.

Design engineers Black & Veatch have regularly updated the engineer's opinion of construction costs at the 30%, 60%, 90% and final design points as illustrated on the following graphic. Estimates were refined as a result of the value engineering input and as technical options were discussed with the Participants from time to time. The estimate of Total Nacimiento Project Construction Costs has exceeded \$150 million since the date of the 30% design submittal (April 2006) and the Project team has shared cost estimate progress reporting at regular intervals.



Total Nacimiento Project Construction Costs are estimated at \$190 million as of the May 2007 100% design submittal. Estimated costs by Participant were distributed at the May 10, 2007, Technical Support Group meeting and are available for each Participant's financial planning at this point.

Throughout the design phase, the Project team followed a common mission: *"To seek opportunities for efficiently designed facilities that focus on capital cost savings and appeal to the construction industry, all in the spirit of bringing the Project in for the budgeted amount of \$150 million."* Materials cost escalation, permit conditions, and better understanding of soils conditions have driven costs up, with deliberate balancing steps in the design approach to save money such as moving the Camp Roberts Pump Station and down-sizing the storage reservoirs. The result is a well-planned water delivery system to efficiently make initial planned deliveries as well as ultimate planned deliveries.



Moving Into the Opt-Out Phase

Important dates relative to the Opt-Out period are:

ACTIVITY	DATE	COMMENT
Black & Veatch's 100% cost estimate distributed in TSG packet	May 7, 2007	
Spec 1 Intake bid opening	July 12, 2007	
Spec 3 Pipeline North bid opening	July 19, 2007	
County Flood Control District issues Cost Opinion based on bid results for Specs 1 and 3	July 25, 2007	This will detail projected Participant costs based on bid results for Specs 1 and 3
Opt-Out Phase begins	July 25, 2007	
Spec 4 Pipeline Central bid opening	July 26, 2007	
District issues 1st update of Cost Opinion	August 1, 2007	This will detail projected Participant costs based on bid results for Specs 1, 3, and 4
Spec 5 Pipeline South bid opening	August 2, 2007	
District issues 2nd update of Cost Opinion	August 7, 2007	This will detail projected Project costs based on bid results for Specs 1, 3, 4, and 5
Spec 2 Facilities bid opening	August 16, 2007	
District issues final Cost Opinion	August 22, 2007	Reflects all bid results
Opt-Out Phase closes	August 24, 2007	

The sequence of events outlined above achieves two important goals. First, it allows for staggered bid openings to encourage bids from a variety of contractors and to promote competitive material pricing. This strategy is designed by the Participants and the Project team to encourage *the most favorable bids* for this large public works project. Second, it allows for the orderly consideration of Project costs during the Opt-Out period, before notices to proceed with construction are issued.

Participants and the District are to be applauded in their forward-thinking in this regard and can expect to see savings to the public resulting from this approach.

* * *



From “Nacimiento Project Water Delivery Entitlement Contracts” dated July 2004.
Article 2 reads:

“ARTICLE 2 Term of Contract; Rescission

“Term. This Contract shall become effective on the Effective Date and shall remain in effect throughout the term provided by Section 3 of the Master Water Contract; *provided*, that if and when, through no fault of the District, one or more provisions of the Master Water Contract shall be terminated or suspended in the manner and for a cause specified in the Master Water Contract, the District’s obligations to the Participant and to the Other Participants under this Contract and under Like-Contracts shall likewise be terminated or suspended; *provided*, however, that this Contract may not be terminated, suspended or rescinded so long as there remain outstanding any Municipal Obligations issued by the District for the Nacimiento Facilities.

“Implementation of the Design Phase and Construction Bidding. The parties hereto acknowledge that the total Nacimiento Project Construction Costs are estimated to be \$150,000,000 as of the Effective Date; the parties hereto further acknowledge that the actual total costs of construction of the Nacimiento Project will be determined through a competitive bid process applicable to the District at the conclusion of the Design Phase (collectively, the “Construction Bids”). The District covenants and agrees to provide All Participants with a summary report of the Construction Bids, not less than two (2) Business Days following the date upon which the last of such bids is received. In the event that the District finds it necessary or advisable to divide the Construction Phase into two or more subphases, it shall provide a summary report to All Participants of those Construction Bids it deems sufficient to begin the Nacimiento Project (which shall include Construction Bids on no less than thirty percent (30%) of the total estimated Nacimiento Project Construction Costs) and a sound estimate (which shall then be current and shall be based, as appropriate, on construction bids received) of total Nacimiento Project Costs, and shall so state and so estimate in its report to All Participants. The thirtieth (30th) calendar day following the date upon which such report is received by the Participant is referred to as the “Opt-out Date.” It is understood and agreed by the parties hereto that the District will incur certain costs and expenses for the Design Phase, which it intends to pay for, in large part, from the proceeds of sale of the Notes. The Construction Bids can only be developed as a result of planning to be accomplished during the Design Phase, by the end of which, the District anticipates that all of the proceeds of the Notes will have been expended. The Participant expressly understands and agrees that the use of the Notes to finance the costs of the Design Phase is an expenditure for the shared benefit of its Water Enterprise and the Water Enterprise of each Other Participant. The District shall not award any construction contracts for the Nacimiento Project until such time as the District shall have consulted with All Participants as to whether to proceed with the Nacimiento Project, and in no event shall any award of a Construction Bid be made, nor shall any Long-Term Project Debt be issued, prior to the Opt-out Date.

“Termination of Participation in Nacimiento Facilities by Participant after Effective Date. Subject to the provisions of subparagraph (A) above, the Participant may withdraw from this Contract (and any Other Participant may withdraw from any Like-Contract) following the Effective Date and on or prior to the Opt-out Date, but only if the total Nacimiento Project Construction Costs shall exceed the figure given in paragraph (B) above. In order to withdraw from participation hereunder, the Participant shall provide written notice to the District and to each Other Participant that it elects to opt out of the Construction Phase.

“Obligations of District, of All Participants and of Participant in the Event of Opting Out. The Participant agrees with the District and all Other Participants that the Initial Participants shall share the costs of the Design Phase by the expedient of remaining obligated for the repayment in full of the principal of and interest on the Notes, whether or not the Participant should subsequently take advantage of the forgoing provisions to opt out of the remaining term of this Contract. Should the Participant elect to withdraw from this Contract by the Opt-out Date, it shall nonetheless repay to the District its pro rata share (in proportion to its Delivery Entitlement Share) of the principal of and interest on the Notes by a date no later than one (1) year following the Opt-out Date. The Participant understands and agrees that the District shall not be obligated to pay any portion of the expenses for the Design Phase or the Municipal Obligations, which shall instead be the pro rata obligations of the Participant and the Other Participants which will benefit from the Nacimiento Project, and that, in the absence of the Participant’s having withdrawn by the Opt-out Date, the Participant and the Other Participants then remaining shall pay to the District pro rata (in proportion to their respective Delivery Entitlement Share or Other Delivery Entitlement Shares) the amount necessary to pay or redeem any outstanding Municipal Obligations. The provisions of this Article shall survive the rescission of this Contract.

“Rescission Following Construction of the Nacimiento Project. Subject to the provisions of subparagraph (A) above, this Contract may be rescinded by the unanimous written consent of the District, the Participant and all Other Participants.”

* * *

Nacimiento Project Commission
June 28, 2007

Agenda Item VI.a – Selection of Environmental Monitoring Consultant
(Commission Action Item – No Subsequent Board of Supervisor
Action Required)

TO: Nacimiento Project Commission

FROM: Christine M. Halley, P.E., Nacimiento Project Engineer

VIA: John R. Hollenbeck, P.E., Nacimiento Project Manager
Noel King, Director, Department of Public Works

DATE: June 28, 2007

Recommendation

Receive a report on the six environmental monitoring proposals and consider staff recommendation for entering into contract negotiations. Amendment of the Jacobs' contract to bring in the environmental monitoring consultant as a subconsultant is to be a subsequent action.

Discussion

On May 11, 2007, the District received six proposals for environmental monitoring services firms in support of the Nacimiento Water Project. The environmental monitoring team would act as part of the construction management team in guiding the permit and environmental compliance during the anticipated 3 year construction window. The monitors would hold responsibility for pre-construction surveys, monitoring of construction activities for compliance with terms of the various permits and compliance plans in effect for the Project, cultural and paleontological resource monitoring and, when needed, collection of findings of significance, reporting to regulators, and environmental training for field staff.

Opus Environmental, TRC, PMC, Rincon, Bio Resources Consultants, and ESA all submitted proposals to the District, review of which is now underway. A selection panel made up of County Public Works and Planning Department staff, City of San Luis Obispo staff, Jacobs, and TJ Cross Engineers will convene June 26, 2007, to make a recommendation. We are pleased to have Nancy Orton on the selection panel. Mrs. Orton was the County environmental specialist who lead the agency's CEQA determination efforts leading up to the 2004 EIR certification.

Each proposal is being evaluated in terms of (1) quality of proposal/ responsiveness to the District's request, (2) personnel qualifications (including subconsultants), (3) Project Manager qualifications, (4) issue area knowledge and experience, (5) quality of previous work products, and (6) cost competitiveness.

Other Agency Involvement

Once selected, the successful environmental monitoring firm will enter into contract negotiations with the District and Jacobs, the prime consultant for construction management services. During



construction, the environmental will represent the District in communications with numerous regulatory agencies.

Financial Considerations

Environmental monitoring services are included as a line item budget in the Construction Phase Budget. Proposed fees all fell within the \$1.8 million line item budget, although contract negotiations have yet to begin. Depending on final contract negotiations, a District-held contingency of +\$2 to \$500,000 may be recommended to address issues such as extended construction periods and overtime, sensitive plant and endangered species retrieval/relocation, addressing cultural and/or paleontological finds beyond those identified in the monitor's bases scope of services, and response to unforeseen permit compliance events.

Results

Selection of a qualified environmental monitor who integrates well into the construction management team will contribute to construction of an environmentally sound project and will be an aid to the orderly progress of construction within the time constraints posed by regulations.

Nacimiento Project Commission
June 28, 2007
Agenda Item VII.a – Builder’s Risk Insurance
(Commission Action Item – Subsequent Board of Supervisor
Action Required)

TO: Nacimiento Project Commission

FROM: Christine M. Halley, P.E., Nacimiento Project Engineer

VIA: John R. Hollenbeck, P.E., Nacimiento Project Manager
Noel King, Director, Department of Public Works

DATE: June 28, 2007

Recommendation

Endorse securing Builder’s Risk insurance for the Project as outlined in the staff report below and give staff direction as to additive coverage for earthquake and flood coverage.

Discussion

During the construction build-out period, builder’s risk insurance is used to protect the project owner/contractors from financial loss arising from the damage to materials installed or stored on the project site. Typical events that are covered under a builder’s risk policy include theft of materials, vandalism, windstorm, collapse, and fire. A builder’s risk insurance policy will include sub-limits for property that is stored off-site as well as property in transit. Coverage can also be place to insure events such as earthquake, flood and damage during testing.

At the April 26, 2007, meeting, the Commission directed staff to work with Alliant Insurance Services to secure quotes for Builder’s Risk insurance. A single policy to cover all five construction contracts and the associated contractors is sought.

As of the date of this draft staff report, Jim Castle of Alliant Insurance Services requested insurance quotes from several underwriters. The underwriters received construction schedule information so that they could assess the extent of facilities expected to be under construction at any one time throughout the construction period. They also received copies of the geotechnical interpretive reports that characterize the seismic considerations along the corridor. A summary of the underwriting responses through June 21, 2007, is attached to this document.

Other Agency Involvement

The District’s approach to insurance coverage for the Nacimiento Water Project will indirectly affect the Participants as well as the construction contractors. Decisions pertaining to Builder’s Risk coverage will be made in conjunction with Commission input.

Financial Considerations

The Project is funded by the Nacimiento Participants per the Nacimiento Project Water Delivery Entitlement Contracts executed by the Board of Supervisors in August 2004, for the initial Participants, and in October 2006, for the New Participant. Costs associated with construction contractor's insurance requirements are included in the engineer's opinion of probable construction cost included in the Nacimiento Water Project design phase budget.

If the first-year's insurance premium were procured during the design phase, which we propose, there are sufficient budget reserves to cover this cost. Beyond that, the costs would be paid during the construction phase through the sale of the bonds. The following identifies the estimated range of cost for the builder's risk insurance if the Project procures this product, assuming a \$150-million construction value, a \$35-million loss limit per event, and three years of premiums. The carrier providing the best-cost estimate to date for each option is listed below with their quoted premium range.

Without Flood and Earthquake:	Fireman's Fund	\$275,000	to	\$325,000
	(years 2008 – 2010)			
With Flood and Earthquake:	AIG	\$925,000	to	\$975,000
	(years 2008 – 2010)			

The earthquake and flood premium includes the same all-risk coverage that would be provided by the Fireman's Fund program. In pricing this coverage the underwriters are modeling the potential for loss based on the geographical location, soil type, and type of materials at risk. The cost for this coverage (estimated at an additional \$600,000 to \$700,000) must be weighed against the owner's ability to financially absorb an uninsured catastrophic loss to the Project. These estimated costs are as of June 2007 and will be finalized prior to the commencement of the initial construction contract. Each of these two options are being discussed, and negotiated, with the underwriters, for consideration by the Technical Support Group before bringing this item to the Board of Supervisors. If Technical Support Group consensus can not be reached, we would bring the item back to your Commission a second time.

Results

Approval of this recommendation would protect the public's investment in elements of the Project that are under construction, providing a source of funds in the event that damage is sustained prior to the Project's completion, and reduce overall Project cost to a relative small extent.

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**Nacimiento Project
Builder's Risk Marketing Summary
As of June 2007**

Carrier	Response
AIG	<p>Quoted without earthquake & flood: Loss Limit: \$35,000,000 Loss Limit Off-Site Storage - \$500,000 Transit Coverage - \$500,000 Deductible - \$25,000 Project Premium - \$550,587</p> <p>Quoted with earthquake & flood: Loss Limit for EQ/Flood - \$15,000,000 Deductible for Flood - \$250,000 Deductible for Earthquake: 5% of Value at Risk at Time of Loss Project Premium - +\$407,405</p> <p>Full Proposal to be submitted prior to placement.</p>
Fireman's Fund	<p>Quoted without earthquake & flood: Loss Limit: \$35,000,000 Loss Limit Off-Site Storage - \$500,000 Transit Coverage - \$500,000 Deductible - \$25,000 Project Premium - \$315,847</p> <p>Full Proposal to be submitted prior to placement.</p>
Responses Pending	Capability
Hartford Insurance Company	Pending – No Earthquake Capacity
Travelers Insurance Company	Pending – No Earthquake Capacity
Ace Insurance Company	Pending – Earthquake Capacity
Zurich Insurance Company	Pending – Earthquake Capacity
Carrier Declinations	
Allianz	
Liberty International Underwriters	
Great American Insurance Company	
Philadelphia Insurance	
Safeco Insurance Company	

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Nacimiento Project Commission
June 28, 2007
Agenda Item VII.b – Extension of Right-of-Way Support Services
(Commission Action Item – Subsequent Board of Supervisor
Action Required)

TO: Nacimiento Project Commission

FROM: Christine M. Halley, P.E., Nacimiento Project Engineer

VIA: John R. Hollenbeck, P.E., Nacimiento Project Manager
Noel King, Director, Department of Public Works

DATE: June 28, 2007

Recommendation

Forward a recommendation to the Board of Supervisors to amend Hamner-Jewell's right-of-way support services contract.

Discussion

Hamner, Jewell and Associates (HJA) has provided right-of-way support services to the Nacimiento Water Project dating back to the preliminary engineering report preparation (2001/02). They are in direct contact with property owners along the Project corridor from whom the District seeks easements. They coordinate closely with the surveyor in preparation of the legal descriptions, the appraisal team, the design team, and the legal support team, and are responsible for presenting offers to private parties, leading discussions with such parties in the effort to finalize easement agreements, processing obtained agreements for District acceptance, opening and monitoring escrows to prompt closures and recordation of easements on the District's behalf.

HJA's time-and-materials contract encompasses a variety of right-of-way services and the firm remains responsive to the many and varied issues that arise along a 45-mile corridor. They take seriously the District's need to secure possessory rights in advance of the September 2007 contractor notices to proceed and have ushered 21 agreements into place and presented offers to all but one affected private party along the corridor. That property is awaiting completion of the final appraisal for the project; HJA will present that final offer once the appraisal report is received.

Remaining right-of-way work as of June 2007 includes preparation for the June 26, 2007, necessity hearing, continued dialogue with remaining property owners to secure agreements, continued coordination with appraisers and legal staff, and formalizing easements with other public agencies such as Monterey County Water Resources Agency, Camp Roberts, Cal Poly and the Land Conservancy, the federal government, and the State of California Dept. of Water Resources. Carrying forward dialogue with property owners into the bid and construction phase is needed to meet property owner expectations and to properly enforce terms of the easement deeds.



An extension to HJA's contract is recommended to continue the right-of-way support for the Project. An option to extending HJA's support services would be to turn over Post-Resolution of Necessity settlement negotiations to legal counsel and to transition property owner contact to Jacobs. These transition steps will indeed take place, but it appears premature when we are close to agreement with a group of property owners and may indeed avoid the cost of litigation in these cases. Retaining HJA's services is recommended.

Other Agency Involvement

This issue was discussed at the June 2007 Technical Support Group meeting and that group indicated their support for the recommended action.

Financial Considerations

The Project is funded by the Nacimiento Participants per the Nacimiento Project Water Delivery Entitlement Contracts executed by the Board of Supervisors in August 2004, for the initial participants, and in October 2006, for the new participant. The costs of right-of-way acquisition services are included in the Project's design phase budget.

HJA's authorized fee dates back to 2005 and as of this date totals \$490,000. An amendment authorizing up to an additional \$100,000 is proposed, bringing the total right-of-way support services fee to \$590,000.

Results

Sustaining consistent right-of-way support services through the onset of construction will provide continuity and consistency in carrying through various property owner requirements associated with construction activities affecting their properties and will help contain project litigation costs by reducing the number of ongoing eminent domain cases.

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Nacimiento Project Commission
June 28, 2007
Agenda Item VII.c – Nacimiento Water Project EIR Addendum
(Commission Action Item – Subsequent Board of Supervisors
Action Required)

TO: Nacimiento Project Commission

FROM: Eric Wier, Environmental Resource Specialist

VIA: John R. Hollenbeck, P.E., Nacimiento Project Manager
Noel King, Director, Department of Public Works

DATE: June 28, 2007

Recommendation

We advise that the Commission recommend to the Board of Supervisors that they approve the Nacimiento Water Project Environmental Impact Report Addendum.

Discussion

An addendum to the Final EIR for the Nacimiento Water Project has been completed to address minor technical changes to the Project since the 2004 certification of the Final EIR. The Final EIR evaluated the potential environmental effects of the Project, which proposed construction of a water intake pump station at Lake Nacimiento Dam, 55 to 65 miles of water transmission pipeline, plus additional water storage tanks and pump stations. The Final EIR was certified on January 6, 2004 by the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District (District), which acted as the Lead Agency pursuant to the California Environmental Quality Act (CEQA).

Since certification of the Final EIR, changes have been made to the project description, including pipeline alignment refinements, turnout location refinements, and pump station and storage tank modifications. The addendum evaluates whether any new impacts would result from implementation of the proposed modifications. The addendum has been prepared because the proposed modifications to the Project meet the criteria for this process as opposed to preparation of a subsequent or supplemental EIR.

The modifications would not result in either new environmental effects or a substantial increase in the severity of previously-identified significant effects. The modifications would result in only minor changes to the previously identified short-term (construction) and long-term (operational) effects. In some cases, the proposed modifications would have beneficial environmental effects by reducing the severity or magnitude of project impacts on resources. No new significant, unavoidable growth-inducing impacts have been identified. None of the changes to the project have or are expected to result in any public controversy.

A full copy of the EIR addendum may be obtained by contacting Eric Wier, Environmental Resource Specialist, at ewier@co.slo.ca.us or (805) 788-2766.

Other Agency Involvement

The State CEQA Guidelines state that addenda and associated CEQA findings must be approved by an agency's governing body (in this case, the Board of Supervisors) concurrently with a future decision on the Project, most likely with approval of a construction contract.

Financial Considerations

The Project is funded by the Nacimiento Participants per the Nacimiento Project Water Delivery Entitlement Contracts executed by the Board of Supervisors in August 2004, for the initial participants, and in October 2006, for the new participant. The costs associated with preparation of the addendum are included in the Project's design phase budget and were previously authorized via addendum to the ESA environmental services contract.

Results

Approval of this recommendation would allow the addendum to proceed to the Board of Supervisors for approval, ensuring the Nacimiento Water Project's continuing compliance with the CEQA and its implementing CEQA Guidelines.

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